

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34621

STATE OF IDAHO,)	2008 Unpublished Opinion No. 566
)	
Plaintiff-Respondent,)	Filed: July 30, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
STEPHEN DONALD METCALF,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Sixth Judicial District, State of Idaho, Bannock County. Hon. Peter D. McDermott, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Stephen Donald Metcalf pled guilty to an amended charge of felony injury to a child. I.C. § 18-1501(1). In exchange for his guilty plea, two counts of rape were dismissed. The district court sentenced Metcalf to a unified term of ten years, with a minimum period of confinement of three years. The district court, however, retained jurisdiction and thereafter placed Metcalf on probation. Metcalf violated the terms of his probation, and the district court revoked Metcalf's probation and ordered execution of his original sentence. Metcalf filed an I.C.R. 35 motion, which the district court denied. Metcalf appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the

motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Metcalf's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Metcalf's Rule 35 motion is affirmed.